

SECOND REGULAR SESSION

SENATE BILL NO. 822

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

Pre-filed December 21, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4242S.01I

AN ACT

To repeal section 307.178, RSMo, and to enact in lieu thereof one new section relating to the admissibility of the use of a safety belt as evidence of comparative negligence, with an existing penalty provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 307.178, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 307.178, to read as follows:

307.178. 1. As used in this section, the term "passenger car" means every
2 motor vehicle designed for carrying [ten] **fifteen** persons or less and used for the
3 transportation of persons; except that, the term "passenger car" shall not include
4 motorcycles, motorized bicycles, motor tricycles, and trucks with a licensed gross
5 weight of twelve thousand pounds or more.

6 2. Each driver, except persons employed by the United States Postal
7 Service while performing duties for that federal agency which require the
8 operator to service postal boxes from their vehicles, or which require frequent
9 entry into and exit from their vehicles, and front seat passenger of a passenger
10 car manufactured after January 1, 1968, operated on a street or highway in this
11 state, and persons less than eighteen years of age operating or riding in a truck,
12 as defined in section 301.010, on a street or highway of this state shall wear a
13 properly adjusted and fastened safety belt that meets federal National Highway,
14 Transportation and Safety Act requirements. No person shall be stopped,
15 inspected, or detained solely to determine compliance with this subsection. The
16 provisions of this section and section 307.179 shall not be applicable to persons
17 who have a medical reason for failing to have a seat belt fastened about their
18 body, nor shall the provisions of this section be applicable to persons while

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 operating or riding a motor vehicle being used in agricultural work-related
20 activities. Noncompliance with this subsection shall not constitute probable cause
21 for violation of any other provision of law. The provisions of this subsection shall
22 not apply to the transporting of children under sixteen years of age, as provided
23 in section 307.179.

24 3. Each driver of a motor vehicle transporting a child less than sixteen
25 years of age shall secure the child in a properly adjusted and fastened restraint
26 under section 307.179.

27 4. In any action to recover damages arising out of the ownership, common
28 maintenance or operation of a motor vehicle, failure to wear a safety belt [in
29 violation of this section] **or misuse of a safety belt by any occupant of a**
30 **passenger car** shall [not] be considered evidence of comparative
31 negligence. Failure to wear a safety belt [in violation of this section] **or misuse**
32 **of a safety belt by any occupant of a passenger car** may also be admitted
33 to mitigate damages[, but only under the following circumstances:

34 (1) Parties seeking to introduce evidence of the failure to wear a safety
35 belt in violation of this section must first introduce expert evidence proving that
36 a failure to wear a safety belt contributed to the injuries claimed by plaintiff;

37 (2)]. If the evidence supports such a finding **regarding comparative**
38 **negligence or mitigation of damages**, the trier of fact may find that the
39 plaintiff's failure to wear a safety belt [in violation of this section] **or misuse of**
40 **a safety belt** contributed to the plaintiff's claimed injuries, and may reduce the
41 amount of the plaintiff's recovery by [an] **any** amount [not to exceed one percent
42 of the damages awarded after any reductions for comparative negligence].

43 5. Except as otherwise provided for in section 307.179, each person who
44 violates the provisions of subsection 2 of this section is guilty of an infraction for
45 which a fine not to exceed ten dollars may be imposed. All other provisions of law
46 and court rules to the contrary notwithstanding, no court costs shall be imposed
47 on any person due to a violation of this section. In no case shall points be
48 assessed against any person, pursuant to section 302.302, for a violation of this
49 section.

50 6. The state highways and transportation commission shall initiate and
51 develop a program of public information to develop understanding of, and ensure
52 compliance with, the provisions of this section. The commission shall evaluate
53 the effectiveness of this section and shall include a report of its findings in the
54 annual evaluation report on its highway safety plan that it submits to NHTSA

55 and FHWA pursuant to 23 U.S.C. 402.

56 7. If there are more persons than there are seat belts in the enclosed area
57 of a motor vehicle, then the passengers who are unable to wear seat belts shall
58 sit in the area behind the front seat of the motor vehicle unless the motor vehicle
59 is designed only for a front-seated area. The passenger or passengers occupying
60 a seat location referred to in this subsection is not in violation of this
61 section. This subsection shall not apply to passengers who are accompanying a
62 driver of a motor vehicle who is licensed under section 302.178.

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